IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE SIDE

CRIMINAL REVN. APPLICATION NO.114 OF 2001

State of Maharashtra .. ..Applicant
Versus
Ravi Kumar Shyamlal Jain & ors. .. ..Respondents

Mr. S.S.Pednekar APP for applicant

CORAM : S.C.DHARMADHIKARI, J.

DATE : 1ST DECEMBER, 2006

P.C.:

1. This criminal application is not admitted. The matter was moved before a learned Single Judge of this Court on 28.6.2001 and after hearing the APP notice was issued. There was an ad-interim order granted in terms of prayer clause (c) which has been continued for the past more than five years. In the light of the fact that the service could not be completed the matter was adjourned repeatedly.

2. The learned Metropolitan Magistrate while allowing an application of the prosecution to adjourn the matter for production of witnesses proceeded to impose cost quantified at Rs.1000/= per witness. This order is under

challenge in this application. The Respondent nos.1, 2, 3 and 7 are duly served. The office endorsement also shows that Respondent nos.5 and 6 are also served. The petition stood dismissed as against the Respondent no.4. None have entered appearance.

3. In my view, once the order under challenge has been stayed for more than five years and the State was not required to deposit the cost, interest of justice would be subserved if the revision application is allowed. In the peculiar facts of this case and when the prosecution was not delaying the trial the cost ought not to have been imposed. The order under challenge is therefore set aside. The revision application is allowed in the aforesaid terms.

(S.C.Dharmadhikari, J.)